

LAST WILL AND TESTAMENT

I, MARJORIE H. RUSSELL, of Walker County, Texas, make this my LAST WILL AND TESTAMENT, and I revoke all Wills previously made by me.

ARTICLE I.

Identification

1.1 My husband's name is KENNETH L. RUSSELL. All references in this Will to "my husband" are to him.

1.2 I have three children, MARY LEE NOLAN, SUZANNE RUSSELL MARSHALL and GEORGE H. RUSSELL. All references in this Will to "my children" are to them.

ARTICLE II.

Specific Gifts

2.1 If my husband survives me, I give him all of my interest in any automobiles, clothing, jewelry, household goods, furniture and furnishings, other articles of personal use or ornament, and other personal effects of a nature, use or classification similar to the foregoing. If my husband fails to survive me, I give such property to my children in equal shares, with particular items to be allocated as they may agree.

2.2 If my husband survives me, I give him all of my interest in his employee or self-employed benefit plans and individual retirement accounts.

2.3 If my husband survives me, I give all of my interest in all insurance policies on the life of my husband to my children in equal shares.

ARTICLE III.

Marital Trusts

3.1 If my husband survives me, I give to my Trustee, IN TRUST, to be administered as provided in this Article, such an amount of property (including any non-probate assets payable to my testamentary Trustee) as will be equal to the maximum marital deduction (allowable under Section 2056 of the Code in determining the Federal estate tax on my gross estate) diminished by the value for Federal estate tax purposes of all other items in my gross estate which qualify for the marital deduction and which pass or have passed to my husband under other provisions of this Will or otherwise; provided, however, this gift of non-probate assets and

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other property shall be reduced by an amount, if any, needed to increase my taxable estate as determined for Federal estate tax purposes to the largest amount which, after taking into account all other deductions allowed to my estate for Federal tax purposes and all allowable credits, will result in the least amount of Federal estate tax being imposed on my estate and further provided that the state death tax credit shall only be taken into account to the extent it does not increase the amount of tax payable to any state. In making the computations necessary to determine the amount of this gift, the final determinations of the Federal estate tax proceedings of my estate shall control. My Executor shall transfer to any trust created under this Article only those properties in my estate which qualify for the marital deduction and shall value each such property at the date of its distribution. My husband may direct my Trustee to convert any unproductive property in any trust under this Article into productive property within a reasonable time. This gift is intended to entitle my estate to the maximum marital deduction (except as limited above) and any provision in this Will which may conflict with or fail of this intention shall be disregarded, reconciled or amplified to accomplish this objective. It is my intention to make this gift whether or not my Executor makes an election pursuant to Section 2056(b)(7) of the Code with regard to any trust created under this Article or any portion thereof. During my husband's lifetime, no income or principal of any trust under this Article shall be distributed to any person other than my husband.

3.2 If my Executor exercises the election provided by Section 2652(a)(3) of the Code as to any property that is to be held in trust under this Article and if a single trust would otherwise have been created under this Article which would have had an inclusion ratio of neither one hundred percent nor zero, then such property shall be held in two separate trusts, subject to the provisions of this Article, so that one trust has an inclusion ratio of zero (hereafter called "Exempt Marital Trust") and the other trust has an inclusion ratio of one hundred percent (hereafter called "Marital Trust"). If my Executor does not exercise the election provided by Section 2652(a)(3) of the Code, the property to be held in trust under this Article shall be held in a single trust which shall be administered and distributed in the same manner as a Marital Trust would be under this Article; provided that upon termination of such trust, the remaining trust principal shall be distributed based upon such trust's inclusion ratio under section 3.6.

3.3 My Trustee shall distribute the net income of any trust created under this Article to my husband at least quarterly.



My Trustee shall also distribute to my husband such amounts of trust principal of any such trust as are necessary, when added to the funds reasonably available to him from all other sources known to my Trustee (excluding the trust created by Article IV) to provide for his health, support and maintenance, in order to maintain him liberally in accordance with the standard of living to which he was accustomed at the time of my death. I desire my Trustee to make any distributions of principal first from the Marital Trust and then from the Exempt Marital Trust.

3.4 My husband shall have the special testamentary power to appoint (outright, in trust or otherwise) all or any part of the principal of any trust created under this Article to any one or more of my descendants; provided, however, such power shall be exercisable only by specific reference in my husband's Will.

3.5 Unless my husband directs otherwise in his Will, upon my husband's death, my Trustee shall pay from the unappointed principal of the trust or trusts created under this Article in the manner set forth below the difference between all taxes which must be paid by reason of my husband's death and those taxes which would be payable by reason of his death had such unappointed principal not been includable in his gross estate for the purpose of calculating such taxes. My Trustee, in my Trustee's discretion, may pay from such unappointed principal all or any part of my husband's funeral expenses, claims which are legally enforceable against his estate (including estate and inheritance taxes) and reasonable expenses of administration of his estate, but my Trustee shall not make any such payments that are not in the best interests of any person having a beneficial interest in the remaining unappointed principal of any such trust upon termination. My Trustee shall make such payments first from the remaining unappointed principal of the Marital Trust or if no Marital Trust is established hereunder or if the remaining unappointed principal of the Marital Trust is insufficient, then any excess shall be paid from the remaining unappointed principal of the Exempt Marital Trust. My Trustee may make such payments directly or may pay over the amounts to the duly qualified executor or administrator of my husband's estate. Written statements by the executor or administrator of my husband's estate of the sums that may be paid under this section shall be sufficient evidence of their amounts and my Trustee shall be under no duty to see to the application of any such payments.

3.6 Each trust created under this Article shall terminate when my husband dies. Upon termination, any accrued but unpaid net income of any such trust shall be distributed to my husband's estate and the remaining unappointed principal of any

such trust (which remains after making any payments provided in section 3.5) shall be distributed to my descendants who are then living per stirpes, with the unappointed principal of the Exempt Marital Trust (and any other trust under this Article with an inclusion ratio of zero) being held subject to the Exempt Descendants Trusts under Article V and with the unappointed principal of the Marital Trust (and any other trust under this Article having an inclusion ratio of greater than zero) being held subject to the Nonexempt Descendants Trusts under Article V; provided if no descendant of mine is then living, such remaining unappointed principal shall be distributed to my heirs.

3.7 My husband may elect by notice to my Executor or Trustee to have his interest in our community property placed in any trust created by this Article for administrative convenience. If my husband so elects, I give his interest in our community property (except for the property referred to in Article II) to my Trustee, IN TRUST, to be administered as provided in this Article. My husband's failure to so elect shall not diminish the other benefits provided for him under this Will.

#### ARTICLE IV.

##### Family Trust

4.1 If my husband survives me, I give all of the residue of my estate to my Trustee, IN TRUST, to be administered as provided in this Article. My husband shall be the primary beneficiary of this trust. If my husband fails to survive me, I give my GST exemption amount (as defined in section 9.6) to those of my descendants who survive me per stirpes, subject to being held in the Exempt Descendants Trusts under Article V, and I give the residue of my estate to those of my descendants who survive me per stirpes, subject to being held in the Nonexempt Descendants Trusts under Article V; provided if no descendant of mine survives me, I give all of the residue of my estate to my heirs.

4.2 My Trustee shall distribute to my husband and my Trustee, in my Trustee's discretion, may distribute to any one or more of my descendants such amounts of the income and principal of the trust created by this Article as are necessary, when added to the funds reasonably available to my husband and my descendants from all other sources known to my Trustee (which in the case of my husband shall include, but not be limited to, any trust created by Article III), to provide for their health, support, maintenance and education, taking into consideration age, education and station in life. I desire that each of my descendants be afforded the opportunity to obtain as complete an education, including



attendance at graduate, professional and special trade schools, as such descendant may reasonably desire and be qualified to obtain.

4.3 My husband shall have the special power to appoint (outright, in trust or otherwise) all or any part of this trust to any one or more of my descendants. Such power shall be exercisable by my husband either by specific reference in his Will or by acknowledged instruments delivered to my Trustee during my husband's lifetime.

4.4 This trust shall terminate when my husband dies. Upon termination, the remaining unappointed trust property shall be distributed to my descendants who are then living per stirpes, subject to the provisions of Article V; provided, however, if no descendant of mine is then living, such remaining unappointed trust property shall be distributed to my heirs.

#### ARTICLE V.

##### Descendants Trusts

5.1 If any unappointed property of any trust created under either Article III or Article IV which has an inclusion ratio of zero upon the termination of such trust, the specific gift under section 4.1 of my GST exemption amount or property allocated pursuant to other provisions in this Will that is exempt from generation skipping transfer tax is to be distributed to a child, grandchild, or great grandchild of mine regardless of age or to any other descendant of mine who has not attained age 30, such property shall not be distributed outright to such child, grandchild, great grandchild or other descendant, but instead my Trustee shall hold all of such property as a separate trust for the benefit of such child, grandchild, great grandchild or other descendant and the records of my Trustee shall be kept accordingly. Each trust created by this section shall be known by the name of my child, grandchild, great grandchild or other descendant for whom it is created (hereafter called "Beneficiary" of such trust) preceded by the designation "Exempt," which child, grandchild, great grandchild or other descendant shall be the primary beneficiary thereof. The trusts which are created pursuant to this section shall be collectively referred to as the "Exempt Descendants Trusts."

5.2 If any portion of the residue of my estate (or property allocated in the same manner as the residue of my estate pursuant to other provisions of this Will) or any unappointed property of any trust created by either Article III or Article IV which has an inclusion ratio greater than zero is to be distributed to a child, grandchild, or great grandchild of mine regardless of age or to any other descendant of mine who has not attained age 30,

such property shall not be distributed outright to such child, grandchild, great grandchild or other descendant, but instead my Trustee shall hold all of such property as a separate trust for the benefit of such child, grandchild, great grandchild or other descendant and the records of my Trustee shall be kept accordingly. Each trust created by this section shall be known by the name of my child, grandchild, great grandchild or other descendant for whom it is created (hereafter called "Beneficiary" of such trust) preceded by the designation "Nonexempt," which child, grandchild, great grandchild or other descendant shall be the primary beneficiary thereof. The trusts which are created pursuant to this section shall be collectively referred to as the "Nonexempt Descendants Trusts."

5.3 With regard to each Exempt Descendants Trust, my Trustee shall distribute to the Beneficiary of such trust and my Trustee, in my Trustee's discretion, may distribute to any one or more of such Beneficiary's descendants, such amounts of the income and principal of such trust as are necessary, when added to the funds reasonably available to such Beneficiary and such Beneficiary's descendants from all other sources known to my Trustee, to provide for their health, support, maintenance and education, taking into consideration age, education and station in life. I desire that each of my descendants be afforded the opportunity to obtain as complete an education, including attendance at graduate, professional and special trade schools, as such descendant may reasonably desire and be qualified to obtain.

5.4 With regard to each Nonexempt Descendants Trust, my Trustee shall distribute to the Beneficiary of such trust such amounts of the income and principal of such trust as are necessary, when added to the funds reasonably available to such Beneficiary from all other sources known to my Trustee (excluding such Beneficiary's Exempt Descendants Trust) to provide for such Beneficiary's health, support, maintenance and education. In addition, with regard to each Nonexempt Descendants Trust, my Trustee, in my Trustee's discretion, may also pay or expend on behalf of any one or more of the descendants of the Beneficiary of such trust, any amounts which constitute a qualified transfer as defined in Section 2503(e)(2) of the Code. I desire that my Trustee make distributions to a Beneficiary first from such Beneficiary's Nonexempt Descendants Trust and then, when those funds have been depleted, from such Beneficiary's Exempt Descendants Trust.

5.5 Each Beneficiary shall have the special power to appoint (outright, in trust or otherwise) all or any part of such Beneficiary's trust to any person or persons related to such



Beneficiary by blood, marriage, or adoption or to any charity or charities. Such power shall be exercisable by any Beneficiary by specific reference in such Beneficiary's Will and by a Beneficiary who has attained age 30 by acknowledged instruments delivered to my Trustee during such Beneficiary's lifetime.

5.6 If, without regard to this section, any part of a Nonexempt Descendants Trust would be subject to the imposition of a generation skipping transfer tax upon the death of the Beneficiary thereof, then such Beneficiary of such Nonexempt Descendants Trust shall have the general testamentary power to appoint all or any part of such Beneficiary's trust to the creditors of such Beneficiary's estate; provided that such general power shall not apply to more than the largest amount, if any, of such Beneficiary's trust where the marginal estate tax (after taking into account all available credits) that would be attributable to the inclusion of such trust in the Beneficiary's gross estate would be less than the marginal generation skipping transfer tax (after taking into account all available credits) that would be attributable to such trust if taxed as a taxable termination. If any estate, inheritance or other death taxes are payable by reason of such Beneficiary's death as a result of the inclusion of all or any portion of the unappointed property of such Beneficiary's Nonexempt Descendants Trust in such Beneficiary's gross estate because of this general power of appointment, my Trustee shall pay to the executors or administrators of such Beneficiary's estate from the remaining unappointed property of such Beneficiary's Nonexempt Descendants Trust the difference between the amount of such taxes that are payable and the amount of such taxes that would be payable if such Beneficiary did not possess this general power of appointment over any portion of such Beneficiary's Nonexempt Descendants Trust, unless such Beneficiary shall direct otherwise in such Beneficiary's Will.

5.7 Each trust created by this Article for a Beneficiary who is one of my children, grandchildren or great grandchildren shall continue for such Beneficiary's lifetime and shall terminate upon such Beneficiary's death. Every other trust created by this Article shall terminate when the Beneficiary thereof attains age 30 or dies, whichever event occurs earlier.

5.8 Upon the termination of a trust created by this Article, all the remaining unappointed property of such trust shall be distributed to the Beneficiary thereof or, if such Beneficiary's death is the event that terminates such trust, all the remaining unappointed property of such trust shall be divided into shares and portions of shares among such Beneficiary's then living descendants per stirpes, and each share or portion so allotted to a descendant

of such Beneficiary other than a grandchild or a great grandchild of mine shall be distributed to such descendant if such descendant has attained age 30 or, if such descendant has not attained that age or if such descendant is a grandchild, or a great grandchild of mine, shall be held by my Trustee in a separate trust for the benefit of such descendant (who will be the "Beneficiary" of such trust) and shall be administered as provided in this Article or, if no descendant of such Beneficiary is then living, all of the remaining unappointed property of such Beneficiary's trust shall be distributed per stirpes to the then living descendants of the one among my great grandchildren who was the ancestor of such Beneficiary or, if no such descendant is then living, all the remaining unappointed property of such Beneficiary's trust shall be distributed per stirpes to the then living descendants of the one among my grandchildren who was the ancestor of such Beneficiary or, if no such descendant is then living, all the remaining unappointed property of such Beneficiary's trust shall be distributed per stirpes to the then living descendants of the one among my children who was the ancestor of such Beneficiary or, if no such descendant is then living, to my descendants who are then living per stirpes; provided, however, if no descendant of mine is then living, all the remaining unappointed property of such trust shall be distributed to my heirs. Any distribution under this section to a child, a grandchild or a great grandchild of mine regardless of age or to any other descendant of mine who has not attained age 30 who is the Beneficiary of a trust then being held under the provisions of this Article shall not be made outright but instead shall be added to the principal and administered as a part of such Beneficiary's trust. Any distribution from a Descendants Trust under this section, other than an outright distribution, shall be either held and administered as a similarly designated Exempt or Nonexempt Descendants Trust or shall be added to an existing similarly designated Exempt or Nonexempt Descendants Trust.

#### ARTICLE VI.

##### Fiduciary Appointments

6.1 I appoint my husband and my son, GEORGE H. RUSSELL, to be Independent Co-Executors of my Will and estate and Co-Trustees of all trusts created by this Will. If my husband fails to qualify or, having qualified, dies, resigns, becomes incapacitated or otherwise ceases to act, GEORGE H. RUSSELL shall be the sole Independent Executor of my Will and estate and the sole Trustee of all trusts created by this Will. If GEORGE H. RUSSELL fails to qualify, or having qualified, dies, resigns, becomes

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incapacitated or otherwise ceases to act, I appoint my daughters, MARY LEE NOLAN and SUZANNE RUSSELL MARSHALL, to be the Independent Co-Executrices of my Will and estate and Co-Trustees of all trusts created by this Will to serve together with my husband. After my husband's death, each Beneficiary of a trust who has attained age 30 may elect at any time to be a Co-Trustee or the sole Trustee of such Beneficiary's trust; provided that if a Beneficiary, after having elected to be the sole Trustee, dies, resigns, becomes incapacitated, or otherwise ceases to act and such Beneficiary fails to appoint a successor Trustee for such Beneficiary's trust within 30 days thereafter, the last Trustee to serve shall become the Trustee of such trust. Unless another meaning is clearly indicated or required by context or circumstances, the term "Executor" or "Trustee" shall also mean and include any co-fiduciaries, alternates or successors. The term "fiduciary" shall include any Executor or Trustee. Except as otherwise specifically provided in this Will, if two or more fiduciaries are named or serving hereunder and any one or more, but not all, decline or cease to serve for any reason, then the remaining fiduciary or fiduciaries, as the case may be, shall be appointed or continue to serve in such capacity.

6.2 No bond or other security shall be required of my Executor or of my Trustee in any jurisdiction. No action shall be required in any court in relation to the settlement of my estate other than the probating and recording of my Will and the return of an inventory, appraisalment and list of claims of my estate.

6.3 After my husband's death, each Beneficiary of a trust who has attained age 30 may at any time remove any Trustee of such Beneficiary's trust, with or without cause, and may appoint a successor Trustee.

6.4 Any Trustee may resign by giving notice to my husband and my descendants or to the Beneficiary or Ward of such trust. If the trusteeship of a trust created by Article III or Article IV becomes vacant for any reason, the power to appoint a successor shall be exercisable by my husband for a period of 30 days or, if he for any reason fails to appoint a successor within such period, by my children (acting by majority) for an additional 30 days. If the trusteeship of any other trust becomes vacant for any reason, the power to appoint a successor shall be exercisable by the Beneficiary or Ward of such trust for a period of 60 days. If no successor Trustee has been appointed within such 60 day period, then upon written request of any interested party, the then presiding judge of the court in which my Will was originally admitted to probate, acting as an individual and not in any

judicial capacity, shall have the power to appoint a successor Trustee.

6.5 Every fiduciary shall be reimbursed for the reasonable costs and expenses incurred in connection with such fiduciary's duties, and every fiduciary shall be entitled to fair and reasonable compensation for services rendered by such fiduciary in an amount not exceeding the customary and prevailing charges for services of a similar character at the time and place such services are performed.

#### ARTICLE VII.

##### Administrative Provisions

7.1 No person shall be deemed to have survived me if such person shall die within 30 days after my death; however, my Executor may make distributions from my estate within that period for the support of my husband.

7.2 All estate, inheritance or similar taxes arising in connection with my death with respect to any property included in my gross estate for the purpose of calculating such taxes, whether or not such property passes under my Will, all funeral expenses and all expenses incurred in connection with the administration of my estate, shall be paid out of the residue of my estate without apportionment; provided, however, if my husband fails to survive me, to the extent the residue of my estate is insufficient for the payment of such taxes and expenses, then any excess, except as otherwise specifically provided in section 7.3, shall be paid on a pro rata basis from all of the assets included in my gross estate except, to the extent possible, the specific bequest of my GST exemption amount under section 4.1. This section shall not apply to any generation skipping transfer taxes imposed by Section 2601 of the Code which instead shall be payable in accordance with the provisions of Section 2603 of the Code.

7.3 Notwithstanding the provisions of section 7.2, (a) any taxes which are imposed by Section 4980A(d) of the Code as the result of any excess retirement accumulation (as defined in Section 4980A(d)(3) of the Code) from any of my employee or self-employed benefit plans and individual retirement accounts shall be apportioned among the beneficiaries of such plans or accounts in the same ratio as the value of each beneficiary's interest in such plans and accounts bears to the total value of all such plans and accounts; and (b) if my husband fails to survive me, to the extent that any property which was includable in my husband's gross estate is subsequently includable in my gross estate by reason of Section 2044 of the Code, all taxes attributable to such property shall be



paid in accordance with the applicable provisions of my husband's Will.

7.4 My Executor may make distributions from my estate immediately upon my death in accordance with the provisions of any trust, whether or not such trust has actually come into existence or received any distribution from my estate. My Trustee may make distributions from any trust immediately upon receipt of any property as Trustee of such trust, whether or not the administration of my estate is complete.

7.5 My Executor may join in the filing of a joint income tax return with my husband or his estate. My Executor may elect to claim administration expenses as deductions in whole or in part either in the income tax returns of my estate or in the estate tax return. Further, my Executor shall make the election to have the property passing pursuant to section 3.1 to any trust created by Article III, if any, qualify as "qualified terminable interest property" pursuant to the provisions of Section 2056(b)(7) of the Code, unless or to the extent my husband (or his personal representative, if he is legally incompetent or deceased) requests in writing, prior to the due date of my federal estate tax return, that such election not be made. My Executor, in my Executor's discretion, may allocate any remaining portion of my GST exemption (as defined in Section 2631 of the Code) to any property as to which I am the transferor, including any property transferred by me during life as to which I did not make an allocation prior to my death and/or among any generation skipping transfers (as defined in Section 2611 of the Code) resulting under this Will and/or that may later occur with respect to any trust established under this Will. My Executor shall not make any adjustments in the interests of any beneficiaries as the result of any such elections or allocations and shall incur no liability for making such elections or allocations if done in good faith.

7.6 If after my death, any trust created under this Will has the same beneficiaries, the same trustees, and substantially similar terms to any other trust created under this Will, or if after the death of both my husband and me any trust created under this Will has the same beneficiaries, the same trustees and substantially similar terms to any trust created under my husband's Will or under any other trust created by my husband and/or me, and the Trustee determines, in such Trustee's discretion, that it is more economical or desirable to combine such trusts into a single trust, then the Trustee may combine such trusts at any time, without any liability or obligation to any beneficiary thereof (whether a direct or contingent beneficiary). Notwithstanding the foregoing, the Trustee shall have no power to combine the Exempt

Marital Trust or the Marital Trust with any other trust and a person who is a Trustee and who is also a Beneficiary shall have no power to combine any trust created by this Will with any trust over which such person holds a general power of appointment as defined in Section 2041 of the Code.

7.7 Notwithstanding anything to the contrary contained in this Will, each trust created herein, unless earlier terminated according to the terms of this Will, shall terminate one day less than 21 years after the date of death of the last to die of my husband and those of my descendants who are living at my death; provided, however, that if pursuant to section 7.6, the Trustee at any time merges and administers as one trust any trust or trusts created hereunder and any trust or trusts under any other instrument, such merged trust shall not continue beyond the earlier date on which either of such trusts would, without regard to such merger, have been required to expire under the rule against perpetuities or other applicable law governing the maximum duration of trusts. If any trust or trusts (including a merged trust) would, but for the terms of this section, continue beyond such date, such trust shall nevertheless at that time terminate and the remaining property of such trust shall be distributed to the Beneficiary thereof.

7.8 All non-probate assets (which shall include but not be limited to all life insurance proceeds from life insurance policies on my life, all employee or self-employed benefit plan payments and all individual retirement account payments) payable to my testamentary Trustee shall, if my husband survives me, be allocated pursuant to section 3.1 of Article III or if he fails to survive me, shall be allocated pursuant to section 4.1. A trust created by Article III shall come into existence if any such assets are allocated to it pursuant to this section even if it would not otherwise come into existence.

7.9 Non-probate assets payable to my testamentary Trustee shall not be liable for or used to pay (but may be loaned for such purpose) any taxes, liabilities, debts, or any other claims against my estate; provided, however, such assets may be used to pay estate, inheritance or similar taxes assessed with respect to such assets.

7.10 My husband may direct my Executor or Trustee to retain our homestead or any replacement home. He may also direct my Executor or Trustee to sell our homestead or any replacement home and invest the proceeds of such sale in a replacement home. The proceeds of a sale shall be the gross sales price less all closing costs and other expenses of sale. In addition, my husband may acquire our homestead or any replacement home by partition of



our property or by purchase from my Executor or Trustee. My husband shall have the exclusive, rent-free use of our homestead or any replacement home; however, while using such property he shall be obligated to pay all property taxes and assessments thereon, maintain same in a good state of repair, maintain adequate fire and extended casualty insurance thereon and pay for any capital improvements which he desires to make to such property. Further, any such property (or any interest therein) shall be acquired by an instrument of title that describes the property with sufficient certainty to identify it and the interest acquired, and the instrument shall be recorded in the real property records of the county in which the property is located, executed by my Executor or Trustee. The preceding provisions of this section shall be construed in accordance with my intention to qualify such property as my husband's residence homestead for ad valorem tax purposes by causing any trust created by this Will which holds an interest in such property to be a "qualifying trust" as defined in §11.13(j) of the Texas Tax Code. This intention shall be overriding and shall control if in conflict with the literal language of this section.

#### ARTICLE VIII.

##### Fiduciary Provisions

8.1 Each fiduciary shall act independently and free from the control of any court as to my estate and as to every trust established under this Will (and as to all of the property of my estate and all of the property of every trust created under this Will), and shall have and possess all powers and authorities conferred upon trustees by the Texas Trust Code, and by any future amendments to the Texas Trust Code or any corresponding statute, except for any instance in which the Texas Trust Code, as amended, or any such other statutory provisions may conflict with the express provisions of this Will, in which case the express provisions of this Will shall control. In addition to such powers and authorities, each fiduciary shall have and possess the following powers and authorities (each of which shall be exercisable in the discretion of such fiduciary) with respect to my estate and every trust established hereunder, and the following provisions shall apply to my estate and every trust established under this Will:

(a) To retain, in the discretion of my Executor or Trustee, any property owned by me including securities of any Executor or Trustee without liability for any depreciation or loss occasioned by such retention;

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(b) To exchange, sell or lease (including leases for terms exceeding the duration of all trusts created by this Will) for cash, property or credit, or to partition, publicly or privately, at such prices, on such terms, times and conditions and by instruments of such character and with such covenants as my Executor or Trustee deems proper, all or any part of the properties of my estate and of each trust, and no vendee or lessee shall be required to look to the application made of any funds paid to my Executor or Trustee;

(c) To use the cash and any of the securities or other property owned by me to satisfy any loans or other debts for which my estate is liable or to continue all or any portion of such loans or debts;

(d) To borrow money from any source (including any Executor or Trustee) and to mortgage, pledge, or in any other manner encumber all or any part of the properties of my estate or of any trust as may be advisable in the judgment of my Executor or Trustee for the advantageous administration of my estate or of any trust;

(e) To invest and reinvest the properties of my estate and each trust in any kind of property whatsoever, real or personal (including oil, gas and other mineral leases, royalties, overriding royalties and other interests), whether or not productive of income and without regard to the proportion that such property or property of a similar character held may bear to my entire estate or to the entire trust, and to make loans to any beneficiary of any trust with adequate security and at an adequate interest rate;

(f) To employ attorneys, accountants, investment managers, specialists and such other agents as my Executor or Trustee shall deem necessary or desirable; to have the authority to appoint an investment manager or managers to manage all or any part of the assets of my estate or any trust, and to delegate to said manager investment discretion and such appointment shall include the power to acquire and dispose of such assets; and to charge the compensation of such attorneys, accountants, investment advisors, investment managers, specialists and other agents and any other expenses against my estate or such trust;

(g) To enter into any transaction on behalf of my estate or of any trust (including loans to beneficiaries for adequate security and adequate interest) despite the fact that another party to any such transaction may be (i) a trust of which any Executor or Trustee under this Will is also a trustee, including any trust established by this Will; (ii) an estate of which any Executor or Trustee under this Will is also an executor or administrator, including my estate; (iii) a business or trust controlled by any Executor or Trustee under this Will or of which any such Executor or Trustee, or any director, officer or employee of any such corporate Executor or Trustee, is also a director, officer or employee; or (iv) any beneficiary, Executor or Trustee under this Will acting individually;

(h) To make, in the discretion of my Executor or Trustee, any distribution required or permitted to be made to any beneficiary under this Will, or under any trust established by this Will, in any of the following ways when such beneficiary is a minor or a person who is



incapacitated in the judgment of my Executor or Trustee by reason of legal incapacity or physical or mental illness or infirmity: (i) to such beneficiary directly; (ii) to the guardian of such beneficiary's person or estate; (iii) by utilizing the same, directly and without the interposition of any guardian, for the health, support, maintenance, or education of such beneficiary; (iv) to a person or financial institution serving as Custodian for such beneficiary under the Uniform Gifts to Minors Act of any state; or (v) by reimbursing the person who is actually taking care of such beneficiary (even though such person is not the legal guardian) for expenditures made by such person for the benefit of such beneficiary; and the written receipts of the persons receiving such distributions shall be full and complete acquittances to my Executor or Trustee. Notwithstanding anything to the contrary in this Will, my Trustee, other than an Independent Trustee as defined under Section 674(c) of the Code, shall make no discretionary distributions of income or principal of any trust that would to any extent reduce or discharge the legal obligation of any person to support any other person;

(i) To store personal effects given to a person who is a minor (or a person who my Executor deems incapacitated) for later distribution to such person, or to sell such property and add the proceeds of sale to a trust of which such person is a beneficiary;

(j) To make divisions or distributions in money or in kind, or partly in each, whenever required or permitted to divide or distribute all or any part of my estate or of any trust; and, in making any such divisions or distributions, the judgment of my Executor or Trustee in the selection and valuation of the properties to be so divided or distributed shall be binding and conclusive;

(k) To release, in the discretion of my Executor or Trustee, any fiduciary power at any time, in whole or in part, temporarily or permanently, by acknowledged instrument;

(l) To register and carry any securities or other property in the name of the nominee of any corporate Executor or Trustee (or to hold any such property unregistered); to exercise any option, right or privilege to purchase or to convert bonds, notes, stocks (including shares or fractional shares of stock of any Executor or Trustee), securities or other property, and to vote any stock owned by my estate or any trust;

(m) To invest in any life insurance policies (including term insurance) on the life of one or more of the beneficiaries of my estate or any trust, or on the life of any person or persons in whom such beneficiaries have insurable interests;

(n) To invest and reinvest all or part of the properties of my estate or any trust in any common trust fund of any corporate Executor or Trustee;

(o) To continue any business (whether a proprietorship, corporation, partnership, limited partnership or other entity) which I own or in which I am financially interested for such time as my Executor or Trustee deems it to be in the best interests of my estate or any of the trusts; to employ in the conduct of any such business such properties of my estate or any trust as my Executor



or Trustee deems proper; to borrow money for use in any such business alone or with other persons financially interested in such business, and to secure such loan or loans by mortgage, pledge or any other manner of encumbrance of not only my interest in such business, but also such other properties of my estate or any trust as my Executor or Trustee deems proper; to organize, either alone or jointly with others, new corporations, partnerships, limited partnerships or other entities; and generally to exercise with respect to the continuance, management, sale or liquidation of any business which I own or in which I am financially interested or of any new business or business interest, all the powers I could have exercised during my lifetime;

(p) To execute lease, pooling or unitization agreements (including agreements of such nature extending beyond the terms of all trusts created by this Will) with respect to any mineral or royalty interest held or acquired by my estate or any of the trusts; to drill or contract for the drilling of wells for oil, gas or other minerals; to make dry hole or bottom hole contributions; to enter into any operating agreements with reference to any mineral leases or properties held or acquired by my estate or by any trust; and generally, with reference to oil, gas and other mineral properties and operations, to enter into such agreements and to do all such other things (whether or not presently recognized as common or proper practice by those engaged in the business of prospecting for, developing, producing, processing, transporting or marketing oil, gas or other minerals) as my Executor or Trustee may deem to be advantageous;

(q) To make, in the discretion of my Executor or Trustee, elections permitted under Section 643(g) of the Code to treat estimated tax payments made by my estate or any trust as estimated tax payments by any one or more of the beneficiaries of my estate or such trust;

(r) To administer undivided interests held by multiple trusts created under this Will as one fund; and

(s) Whenever in this Will an action is authorized in the discretion of my Executor or Trustee, the term "discretion" shall mean the absolute and uncontrolled discretion of such fiduciary.

8.2 Any notice or election required or permitted to be given by or to a fiduciary acting under this Will must be given by acknowledged instrument actually delivered to the person or fiduciary to whom it is required or permitted to be given. Any notice required or permitted to be given to a minor or an incompetent shall be given to such minor's parents or guardian or to such incompetent's guardian. If such notice concerns a trusteeship, it shall state its effective date and shall be given at least 30 days prior to such effective date, unless such period of notice is waived. Any action permitted to be taken by a minor or an incompetent shall be taken by such minor's parent or guardian or by such incompetent's guardian.



8.3 Each Executor or Trustee shall be relieved of any duty to examine the acts of any prior fiduciary and no court accounting shall be required. Each successor Executor or Trustee shall be responsible only for properties which are actually delivered to such Executor or Trustee. All properties, books of account and records of my estate and of each trust shall be made available for inspection at all times during business hours by the primary beneficiary of any trust under this Will and any person designated by such primary beneficiary.

8.4 In acting or declining to act, each Executor or Trustee may rely upon a written opinion of a competent attorney, any facts stated in a written document believed true or any other evidence such Executor or Trustee deems sufficient. Each Executor and Trustee shall be saved harmless from liability for any action taken or for the failure to take any action, if done in good faith and without gross negligence.

#### ARTICLE IX.

##### Miscellaneous Provisions

9.1 Prior to the actual receipt of such property by any beneficiary, no property (income or principal) distributable under this Will or under any trust created by this Will shall be subject to anticipation or assignment by any beneficiary, or to attachment by or to the interference or control of any creditor or assignee of any beneficiary, or taken or reached by any legal or equitable process in satisfaction of any debt or liability of any beneficiary, and any attempted transfer or encumbrance of any interest in such property by any beneficiary hereunder prior to distribution shall be void.

9.2 Any person who would be the primary beneficiary of a trust provided for under this Will, acting alone and without the joinder of any other person, shall have the right to disclaim all or any portion of any property of my estate or other property that would (absent such disclaimer) be distributable or payable to the trust of which such person would be the primary beneficiary, and the property (or portion thereof) so disclaimed shall be payable in the same manner as would have been the case had the disclaiming person failed to survive me as provided in this Will or the instrument pursuant to which such property is payable. In the case of any trust provided for under this Will to which property (or a portion thereof) becomes payable by reason of such a disclaimer, then, notwithstanding any provision in this Will to the contrary, the disclaiming person shall have no power or authority (whether a fiduciary or non-fiduciary power or authority) with respect to such

trust and shall have no beneficial interest in such trust that, if it were held or possessed by such disclaiming person after such disclaimer, would cause such disclaiming person's disclaimer to fail to be a qualified disclaimer (as defined in Section 2518(b) of the Code), but such disclaiming person may (except to the extent expressly disclaimed in such disclaiming person's instrument of disclaimer) continue to have or possess such powers and authorities (whether fiduciary or non-fiduciary powers or authorities) as to such trust and such beneficial interests in such trust as otherwise conferred by this Will that would not cause such disclaiming person's disclaimer to fail to be a qualified disclaimer. Any disclaimer pursuant to this section shall be made in the manner provided by law and may be made by the personal representative of a deceased primary beneficiary or by the guardian of the estate of a minor or incompetent primary beneficiary even if such personal representative or guardian may personally benefit, directly or indirectly, by reason of the disclaimer made on behalf of such deceased, minor or incompetent primary beneficiary. The person who would be the primary beneficiary of a trust is the person designated as the primary beneficiary thereof in this Will or, if the trust has only one current beneficiary, such current beneficiary. If my husband disclaims any part of the gift made in section 3.1, such disclaimed portion shall pass as part of the residue of my estate to be held, IN TRUST, and administered as provided in Article IV.

9.3 If any share of my estate or, upon termination of a trust, any share of trust property would be distributed to a person who is under age 25 or who is, in the discretion of my Executor or Trustee, incapacitated by reason of legal incapacity or physical or mental illness or infirmity (such person is referred to as the "Ward"), then I direct my Trustee to hold such share in a separate trust for the benefit of such Ward. My Trustee shall utilize such amounts of the income and principal of the Ward's trust as my Trustee, in my Trustee's discretion, deems desirable from time to time to provide for the Ward's comfort, health, support, maintenance or education, directly and without the interposition of any guardian; provided, however, my Trustee may distribute to the Ward all or any part of the income of such trust as my Trustee deems desirable, without regard to any standard or other sources of support. A trust created by this section for a Ward who is under age 25 shall terminate when such Ward attains that age. Every other trust created by this section shall terminate when the Ward of such trust, in the discretion of my Trustee, is legally, mentally and physically capable of receiving the outright ownership of the property of such trust. Upon the termination of a trust



created by this section the remaining property of such trust shall be distributed to the Ward of such trust, but if a Ward dies before the termination of such Ward's trust, then upon such Ward's death the remaining property of such trust shall be distributed to such Ward's estate.

9.4 Notwithstanding anything to the contrary contained in this Will, if any stock of a S corporation (as defined in Section 1361(a) of the Code) is to be distributed to the Trustee of any trust created under this Will (other than a trust created by Article III), my Trustee shall, within the time period prescribed by Section 1361(c) of the Code, instead hold such S corporation stock in a separate trust as hereinafter provided under this section. If the S corporation stock is set aside from the trust created by Article IV, my husband shall be the Beneficiary of the S corporation trust under this section. If the S corporation stock is set aside from any other trust created by this Will, the Beneficiary or Ward of such other trust shall be the Beneficiary of such Beneficiary's or such Ward's S corporation trust under this section. My Trustee shall distribute the net income of the S corporation trust to the Beneficiary thereof at least annually and, upon the death of the Beneficiary, any accrued but unpaid income of such trust shall be distributed to such Beneficiary's estate. In addition, my Trustee shall distribute to the Beneficiary such amounts of the principal of the S corporation trust as are necessary for the reasonable health, support, maintenance and education of such Beneficiary. No income or principal of any trust created under this section shall be distributed to any person other than the Beneficiary thereof. Each Beneficiary's S corporation trust created under this section shall terminate in accordance with the termination provisions of the trust from which the S corporation stock was set aside and, upon such termination, all of the remaining principal of such Beneficiary's S corporation trust shall be added to the trust from which it was set aside and distributed as a part thereof. Notwithstanding the preceding sentence, any S corporation stock that is to be held in a trust under other provisions of this Will for a Beneficiary or Ward shall not be held under such other trust but rather shall be held under the provisions of this section with such Beneficiary or Ward of such other trust being the Beneficiary hereunder. The Beneficiary of a trust created under this section shall make the election under Section 1361(d)(2) of the Code in the manner and within the time required by said Section. Any trust established by this section is intended to constitute a qualified subchapter S trust, as defined in Section 1361(d)(3) of the Code, and any provision of this Will

which may conflict with or fail of this intention shall be disregarded, reconciled or amplified to accomplish this objective.

9.5 Notwithstanding anything to the contrary contained in this Will, with respect to any special power of appointment granted to my husband under this Will, my husband shall not exercise such power in favor of himself, his creditors, his estate or the creditors of his estate. Notwithstanding anything to the contrary contained in this Will, with respect to any special power of appointment granted to the Beneficiary of a trust under this Will, such Beneficiary shall not exercise such power in favor of such Beneficiary, such Beneficiary's creditors, such Beneficiary's estate or the creditors of such Beneficiary's estate. The exercise of any special power of appointment by any holder thereof shall supersede the power of my Trustee over the trust property so appointed; provided, however, the exercise of such power shall not affect any distributions of trust property previously made by my Trustee. Furthermore, no person holding a fiduciary power shall exercise such power to discharge such person's legal obligations of support when funds for such support are otherwise available.

9.6 References to "inclusion ratio" shall have the same meaning as that term is defined in Section 2642(a) of the Code. References to my "GST exemption amount" shall be the maximum amount of my GST exemption available to me and my estate at the time of my death, after taking into account all allocations of my GST exemption made by me pursuant to Section 2632(a) of the Code during my lifetime, all allocations of my GST exemption made by my Executor to inter vivos gifts made by me, and all deemed allocations to any direct skips (as defined in Section 2632(b)(1) of the Code) made by me during my lifetime and to any direct skips occurring at my death. In satisfying any pecuniary gift of my GST exemption amount, my Executor may make distributions in cash or in kind, or partly in each and shall value each such property at the date of its distribution.

9.7 References to "descendant" or "descendants" mean lineal blood descendants of the first, second or any other degree of the ancestor designated; provided, however, such references shall include, with respect to any provision of this Will, descendants who have been conceived at any specific point in time relevant to such provision and who thereafter survive birth; and provided further that an adopted child and such adopted child's lineal descendants by blood or adoption shall be considered under my Will as lineal blood descendants of the adopting parent or parents and of anyone who is by blood or adoption a lineal ancestor of the adopting parent or of either of the adopting parents.



9.8 References to "heirs" are to those persons who would inherit separate personal property from the person designated under the statutes of descent and distribution of Texas if such person died intestate and single at such time.

9.9 References to various sections of the "Code" are to such designated sections of the Internal Revenue Code of 1986, as amended.

IN TESTIMONY WHEREOF, I have placed my initials on each of the foregoing pages of this, my LAST WILL AND TESTAMENT, and in the presence of two Witnesses, who are acting as witnesses at my request, in my presence and in the presence of each other, I hereunto sign my name, on this the 24 day of April, 1995.

Marjorie H. Russell  
MARJORIE H. RUSSELL, Testatrix

The foregoing instrument was signed by the Testatrix in our presence and declared by her to be her LAST WILL AND TESTAMENT, and we, the undersigned Witnesses, sign our names hereunto as witnesses at the request and in the presence of the Testatrix, and in the presence of each other, on this the 24<sup>TH</sup> day of APRIL, 1995.

Robert G. McCann  
Witness

1621 AVE. R  
HUNTSVILLE, TX.  
Residence Address

Paul E. Mark  
Witness

3804 Meadow Lake, Huntsville, TX  
Residence Address

THE STATE OF TEXAS §  
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared MARJORIE H. RUSSELL, Robert J. McLean and Paul E. Martin, known to me to be the Testatrix and the Witnesses, respectively, whose names are subscribed to the annexed or foregoing instrument in their respective capacities, and, all of such persons being by me duly sworn, the Testatrix declared to me and to the Witnesses in my presence that such instrument is her LAST WILL AND TESTAMENT, and that she had willingly made and executed it as her free act and deed; and the Witnesses, each on his or her oath stated to me, in the presence and hearing of the Testatrix, that the Testatrix had declared to them that such instrument is her LAST WILL AND TESTAMENT, and that she executed same as such and wanted each of them to sign it as a witness; and upon their oaths each Witness stated further that they did sign the same as witnesses in the presence of the Testatrix and at her request; that she was at that time 18 years of age or over and was of sound mind; and that each of the Witnesses was then at least 14 years of age.

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COUNTY CLERK  
WALKER COUNTY

2007 JUL 3 PM 3 46

DEPUTY NOTARY PUBLIC

Jessie Schuyler

Marjorie H. Russell  
MARJORIE H. RUSSELL, Testatrix

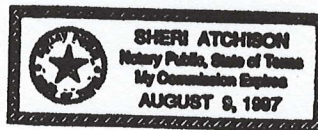
Robert J. McLean  
Witness

Paul E. Martin  
Witness

SUBSCRIBED AND SWORN TO before me by MARJORIE H. RUSSELL, Testatrix, and by Robert J. McLean and Paul E. Martin, Witnesses, this the 24<sup>th</sup> day of April, 1995.

Sheri Atchison  
NOTARY PUBLIC IN AND FOR  
THE STATE OF TEXAS

GTE46:12/wpc  
95-213-00:3/30/95



M. H. P.